

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Brandice Elliott, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: July 21, 2015
SUBJECT: BZA Case 19055, 4409 Minnesota Avenue, N.E.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **supports** the following area variance:

- § 404.1, Rear Yard (20 feet required, 9 feet; 17 feet, 10 inches; and 16 feet, 10 inches proposed).

Because of its impact on other forms of relief that are not supported, OP is **unable to support** the following special exception, but notes that the proposal is consistent with Inclusionary Zoning (IZ) provisions:

- §§ 401.3 and 2604.3, Lot Width (30 feet required, 25 feet proposed).

OP is also **unable to support** the extent of the requested relief for the following area variances:

- § 401.3, Lot Area (2,500 square feet required, 1,596 square feet proposed);
- § 403.2, Lot Occupancy (40% maximum required, 44% proposed); and
- § 405.9, Side Yard (8 feet required, 5 feet proposed).

OP is supportive of this proposal in concept, and acknowledges the difficult lot configuration due to the shallow depth. However, it would appear that some redesign, although this would result in a reduction in the number of dwelling units, would achieve a proposal that would more accurately reflect the intent of the R-2 zoning. Principally, widening the lots to the normally required width (30 feet) or providing the required side yard (28 feet) could eliminate some forms of relief (side yard and lot occupancy) and lessen the degree of relief needed for lot area. At 30 feet wide, the typical lot would be increased in area from about 1,600 square feet to approximately 1,900 square feet, while at 28 feet wide (to provide an 8' side yard as required), the lot area would be approximately 1,790 square feet. While this would still be well below the required area of 2,500 square feet, the lot area relief would appear to be justified by the abnormally shallow depth of the lots (just under 64 feet).

As such, OP would support a reduced level of relief resulting from the creation of lots which only require relief from the lot area requirement and the rear yard requirement, or which provide the required side yards - both of which would appear to be justifiable with additional information provided by the applicant.

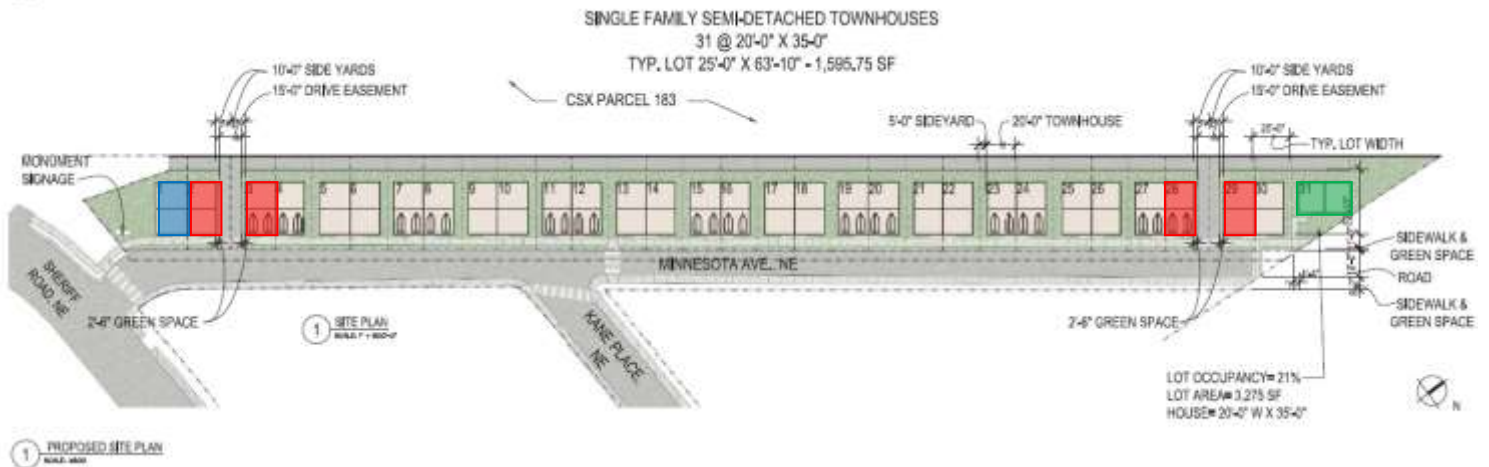
II. LOCATION AND SITE DESCRIPTION

Address	4409 Minnesota Avenue, N.E.
Legal Description	Square 5097, Lot 846
Ward	7, 7D
Lot Characteristics	The subject property is a long, linear lot with a total area of 55,517 square feet. A portion of the lot abuts an improved section of Minnesota Avenue, while the remaining portion, north of Kane Place, is unimproved. The west property line abuts a CSX railroad.
Zoning	R-2 – detached and semi detached single family dwellings.
Existing Development	Abandoned auto repair establishment with one bay; not permitted in this District.
Historic District	N/A
Adjacent Properties	Adjacent properties are generally residential, having an average lot area of over 3,000 square feet and an average lot width of over 35 feet. A beer distributing facility is located south of the site, east of Minnesota Avenue and south of Sheriff Road.
Surrounding Neighborhood Character	The surrounding neighborhood character is predominantly residential. The site is located between Deanwood Metro Station (orange line) to the north, and Minnesota Avenue Metro Station (orange line) to the south. The west property line abuts a CSX railroad track. The nearest commercial corridor is located along Nannie Helen Burroughs Avenue, where smaller-scale commercial establishments are located.




III. APPLICATION IN BRIEF

The applicant requests relief that would allow for the subdivision and development of 31 lots on a property in the R-2 District. Thirty of the proposed dwellings will be three-story semi-detached dwellings with two car garages integrated into the ground floor. These dwellings will consist of four bedrooms and three-and-one-half bathrooms. One three-story detached dwelling would be located at the north end of the development, and consist of four bedrooms and three-and-one-half bathrooms, with a one car garage incorporated into the ground floor. The applicant has indicated that all of the dwellings would be affordable, but will be providing three Inclusionary Zoning (IZ) units. Relief has been requested based on the Bonus Density standards permitted under IZ requirements.

IV. ZONING REQUIREMENTS and RELIEF REQUESTED



LEGEND

	rear yard relief
	lot occupancy, rear yard, lot area, and lot width relief
	rear yard and side yard relief
No color	lot occupancy, rear yard, side yard, lot area, and lot width relief

R-2 Zone	Lots	Regulation	Proposed	Relief
Lot Width § 401 (Special Exception)	1	30 ft. min.	42 ft., 7 in.	Not required
	2, 3, 28, 29		25 feet	Required
	4-27, 30		25 feet	Required
	31		100 ft., 9 in.	Not required
Lot Area § 401 (Area Variance)	1	3,000 SF min.	2,804 SF	Not required
	2, 3, 28, 29	2,500 SF min. (IZ)	1915 SF	Required
	4-27, 30		1,596 SF	Required
	31		3,356 SF	Not required
Lot Occupancy § 403 (Area Variance)	1	40% max.	25%	Not required
	2, 3, 28, 29		37%	Not required
	4-27, 30		44%	Required
	31		21%	Not required
Rear Yard § 404 (Area Variance)	1	20 ft. min.	9 ft., 1/8 in.	Required
	2, 3, 28, 29		17 ft., 10 in.	Required
	4-27, 30		17 ft., 10 in.	Required
	31		16 ft., 10 in.	Required
Side Yard § 405 (Area Variance)	1	8 ft. min.	30 ft., 8 in.	Not required
	2, 3, 28, 29		10 feet	Not required
	4-27, 30		5 feet	Required
	31		5 feet	Required

V. OFFICE OF PLANNING ANALYSIS

a. Area Variance Relief from § 401, Lot Area; § 403, Lot Occupancy; § 404, Rear Yard; and § 405, Side Yard

i. Exceptional Situation Resulting in a Practical Difficulty

The applicant has requested several areas of relief that would allow for the development of a new subdivision consisting of 31 lots. The lot is linear and shallow, consisting of 55,517 square feet, not excluding the future land dedication to Minnesota Avenue. With the dedication of 4,620 square feet, the remaining land area is 50,897 square feet, and the typical depth of the lot is just short of 64 feet. In the R-2 District, a required minimum lot area would permit a total of 20 lots having 2,500 square feet by right; however, a total of 31 are proposed. The applicant has identified four areas of practical difficulty, which include the shape and size of the lot, the proximity of the lot to the CSX railroad tracks, the fact that the lot is largely unimproved, and the dedication of right-of-way for the completion of Minnesota Avenue. In addition, a pro forma has been provided, demonstrating the total profit to be gained from the development under various scenarios. Because this is new

development on a vacant lot recently purchased by the applicant, OP does not accept an economic argument as justifying relief from the zoning regulations.

Lot Area, Lot Occupancy, and Side Yard

In general, OP supports the concept of the proposed development; it would develop a long-neglected parcel in a difficult location, and would provide affordable housing near two Metro Stations. OP also acknowledges that the lot area will be reduced as a result of the right-of-way dedication for the improvements to Minnesota Avenue and the streetscape by a total of 10,500 square feet, where 4,620 square feet will be dedicated to right-of-way and the remaining 5,880 square feet will be set aside for sidewalk and landscape improvements.

However, the degree of relief that has been requested for this project has not been justified through the applicant's statement and supporting documents. The requested relief would result in a density on the parcel that is inconsistent with the R-2 District. In fact, the proposed lot area would be more consistent, but not compliant, with the R-3 District, which is a row dwelling District, and requires a lot area of 1,600 square feet for developments that comply with IZ requirements. What has been proposed is a 30% increase over matter-of-right development.

The lot is long and narrow, but the shape itself does not make it difficult to subdivide the property in a way that conforms more closely to the Zoning Regulations. For example, in order to provide a conforming lot occupancy of 40% on lots 4-27, the applicant would need to increase the lot size by approximately 154 square feet (about 2.5 extra feet of lot width), which would result in a decrease of three lots. Alternatively, the footprint of the dwellings could be reduced by approximately 62 square feet to achieve a compliant lot occupancy. These reductions would also positively affect the side yards, allowing for greater conformity to the Zoning Regulations. The applicant has indicated that four lots would need to be removed from the proposal in order to provide compliant side yards.

The proximity of the lot to the CSX railroad tracks does not impact the area of the lot and is not a practical difficulty in developing lots compliant with the Zoning Regulations. If an additional buffer was required to mitigate the impact of the railroad tracks, then the land area would be impacted and a practical difficulty would be present. Further, the fact that the lot is largely unimproved is not a practical difficulty in this case, as the cost of the land appears to have reflected the fact that infrastructure is not present on the lot, and it is normal practice that new development provide the required utilities to make that development possible.

Rear Yard

The depth of the lot, at approximately 64 feet (excluding right-of-way dedication), is a constraint that makes it practically difficult to comply with rear yard requirements. In order to provide a 20 foot rear yard in the R-2 District, lots of 2,500 square feet and a lot width of 25 feet would need to have a depth of at least 100 feet. There are no other ways to arrange the subdivision to achieve a greater depth, and the depth of the lot has been further reduced by the right-of-way dedication and streetscape improvements. For this reason, OP supports the requested rear yard relief.

Financial Analysis

The applicant has provided a pro forma that provides an analysis of the profit that would be gained in three different scenarios, including a subdivision with 15 lots, 21 lots, and 31 lots. Reviewing the analysis has resulted in questions to which the applicant should respond.

- The pro forma indicates that the purchase price of the entire site was \$850,000, while records from the Office of Tax and Revenue indicate that the purchase price was \$550,000. The applicant should explain the discrepancy between these figures.
- The pro forma does not compare the costs of constructing similar sized homes on fewer lots. The statement provided by the applicant states that significantly larger and less marketable homes would have to be constructed if the lots were larger. However, the Zoning Regulations do not require the construction of larger homes on larger lots. While OP does not accept an argument showing that there is economic hardship for new development on a recently purchased vacant lot, the applicant should provide an analysis comparing the costs of constructing the same home in the 31-lot scenario on larger lots.

ii. No Substantial Detriment to the Public Good

Lot Area, Lot Occupancy, and Side Yard

The area variances, to the extent requested, would cause substantial detriment to the public good. The most frequently-occurring lot size in squares 5097 and 5125 is 2,500 square feet, which would be permitted for this development since it would be compliant with IZ requirements. The proposed lots, at 1,596 square feet, would be significantly smaller than the pattern of development already existing in the neighborhood. The proposed higher density is at odds with the R-2 District and the surrounding neighborhood, and would be inconsistent with the existing pattern of development. Furthermore, a compliant side yard would mitigate some of the impacts of the abutting railroad tracks, and provide an additional 200 square feet of open space per lot in a development that has very little.

Rear Yard

While most dwellings in this neighborhood tend to have larger lots and, as a result, deeper rear yards, it is not anticipated that a reduced rear yard for the lots in this development would cause a substantial detriment to the public good, particularly if compliant side yards and compliant lot occupancy are provided. The rear property line of each lot abuts railroad tracks, so a sufficient buffer has been provided between the proposed dwellings and adjacent uses.

iii. No Substantial Harm to the Zoning Regulations

Lot Area, Lot Occupancy, and Side Yard

The intent of the R-2 District is to protect areas developed with one-family semi-detached dwellings. While the proposed dwellings are consistent with the type of development expected in this District (semi-detached), the reduced lot area, by approximately 35%, as well as reduced lot width, introduce a level of density to the neighborhood that is not anticipated in this zone. Therefore, the extent of the reduction in lot area as proposed would cause substantial harm to the Zoning Regulations.

Not providing a sufficient side yard results in less open space and a smaller buffer between residences. In the R-2 District, a lower density residential zone, larger open spaces and buffers are a main characteristic of neighborhoods. While a five foot side yard is acceptable in many instances, in this case it is the result of the creation of new nonconforming lots that present a self-imposed

difficulty. Given that the rear yard would be reduced out of necessity due to the depth of the lot, the side yard should provide the open space not provided at the rear of the lot.

Rear Yard, § 404

In the R-2 District, the intent of the provision of a rear yard is to ensure that adequate open space has been provided on individual lots, and that a sufficient buffer has been provided between the proposed and adjacent uses. Substantial harm would not be caused to the Zoning Regulations in relation to the rear yard, as the railroad tracks to the west serve as a buffer between the proposed and adjacent uses.

b. Special Exception Relief pursuant to § 401.3 and 2604.3, Lot Width

i. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?

The applicant has requested relief for lot width, providing a width of 25 feet where 30 feet is required. A reduced width of 25 feet is permitted by special exception when the development complies with IZ requirements. In this case, the applicant has indicated that three units, or 10% of the gross floor area devoted to residential use, will be IZ units.

The median lot width and most frequently occurring lot width within squares 5125 and 5097 is 25 feet, which is consistent with what has been proposed for this development. Further, the proposal would allow for the provision of essential IZ units. However, the request for lot width relief conflicts with the request for lot area relief, which is not supported by OP. In order to provide a lot area that is consistent with the surrounding neighborhood and that meets the intent of the R-2 District, the width of the proposed lots would need to be increased to provide larger properties. Because of this, OP is unable to support the request for lot width relief.

ii. Would the proposal appear to tend to affect adversely, the use of neighboring property?

The requested relief for lot width would not appear to adversely impact the use of neighboring property. A reduced lot width is consistent to what has been provided along the east side of Minnesota Avenue, Kane Place, and 44th Street. However, it does conflict with the intent to provide right-sized lots in the R-2 District.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

As of the date of this writing, comments from other District Agencies had not been received. However, it is anticipated that DDOT will file a report under separate cover.

VII. COMMUNITY COMMENTS

OP has not received any comments from the community regarding the proposed relief, and letters from neighbors and the ANC have not been submitted to the record. OP has reached out to the ANC Single Member District for comments, and as of the date of this writing, has not received a response.

Location Map

